To:

Healthcare Distribution Management Assoc ETC.

(mail@baconthomas.com)

Subject:

TRADEMARK APPLICATION NO. 78602188 - HEALTHCARE

DISTRIBUTORS INTERNATIONAL - HEAL6002/TJM

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Attachments: Attachment - 1

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Attachment - 5

Attachment - 6

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO:

78/602188

APPLICANT:

Healthcare Distribution Management Assoc ETC.



CORRESPONDENT ADDRESS:

THOMAS J. MOORE

BACON & THOMAS, PLLC 625 SLATERS LN FL 4

ALEXANDRIA, VA 22314-1169

RETURN ADDRESS:

Commissioner for Trademarks P.O. Box 1451

Alexandria, VA 22313-1451

If no fees are enclosed, the address should include the words "Box Responses - No Fee."

MARK:

HEALTHCARE DISTRIBUTORS INTERNATIONAL

CORRESPONDENT'S REFERENCE/DOCKET NO: HEAL6002/TJM

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.

2. Date of this Office Action.

3. Examining Attorney's name and Law Office number.

4. Your telephone number and e-mail address..

CORRESPONDENT EMAIL ADDRESS:

mail@baconthomas.com

Serial Number 78/602188

The trademark examining attorney has carefully reviewed the request for reconsideration and is not persuaded by applicant's arguments. No new issue has been raised and no new compelling evidence has been presented with regard to the point(s) at issue in the final action. TMEP §715.03(a). Therefore, the request for reconsideration is denied and the final refusal is continued. 37 C.F.R. §2.64(b); TMEP §715.04.

Applicant has applied for the mark HEALTHCARE DISTRIBUTORS INTERNATIONAL for a variety of goods and services directed to health care distributors all related to the distribution of healthcare products. From the onset, applicant claimed section 2(f) based on applicant's ownership of the mark HEALTHCARE DISTRIBUTION MANAGEMENT ASSOCIATION. The examining attorney issued a refusal under Trademark Act Section 2(e)(1) because the mark is primarily merely descriptive and because the prior U.S. Registration claimed in this application is insufficient to establish distinctiveness because the marks are not the same.

In applicant's response, the applicant argued that the proposed mark is suggestive and not merely descriptive when considered as a whole. The applicant contended that the mark is a unitary mark and is inherently distinctive and a disclaimer is not required.

The request for reconsideration revisits the applicant's initial claim that the applicant's mark has acquired distinctiveness based on the prior U.S. Registration HEALTHCARE DISTRIBUTION MANAGEMENT. The applicant has not submitted any new compelling evidence with regards to this point.

The applicant must establish, through the appropriate submission, the acquired distinctiveness of the same mark in connection with specified other goods and/or services in connection with which the mark is in use in commerce. The examining attorney maintains that applicant has not satisfied the element concerning the same mark. HEALTHCARE DISTRIBUTORS INTERNATIONAL is not the legal equivalent of the registered mark HEALTHCARE DISTRIBUTION MANAGEMENT ASSOCIATION. The marks create a different overall commercial impression. The designation, distributor, is defined in relevant part as follows.

dis trib u tor (dî-strîb ye-ter) noun Abbr. distr.

- 2. One that markets or sells merchandise, especially a wholesaler.
 - dis·trib¹u·tor·ship´ noun[1]

The designation distribution is defined in part as follows.

dis-tri-bu-tion (dîs'tre-by;1shen) noun

Abbr. distr. 1. The act of distributing or the condition of being distributed; apportionment.

Something distributed; an allotment.
The act of dispersing or the condition of being dispersed; diffusion.

6. The process of marketing and supplying goods, especially to retailers.[2]

The applicant's proposed mark when used in connection with the identified goods/services describes the intended users, healthcare distributors and the scope of the services, international in scope. Where as the registered mark describes the subject matter, management in the field of healthcare distribution and an entity type designation, an association. For applicant's convenience, the examining attorney has attached the dictionary definition of "management," "international, and "association.

The marks HEALTHCARE DISTRIBUTORS INTERNATIONAL and HEALTHCARE DISTRIBUTION MANAGEMENT ASSOCIATION are not similar in sound, appearance, connotation or commercial impression. Thus, the prior U.S. Registration claimed in this application is insufficient to establish distinctiveness as to the proposed mark HEALTHCARE DISTRIBUTORS INTERNATIONAL. Thus the final refusal under Trademark Act Section 2(e) (1) is continued.

Advisory

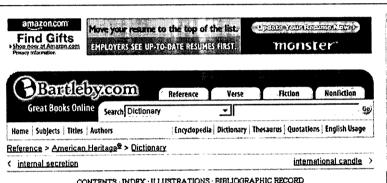
In the final Office action the examining attorney advised applicant that if applicant submits an acceptable amendment to allege use and amends to the Supplemental Register, then applicant must disclaim the descriptive wording "HEALTHCARE DISTRIBUTORS" apart from the mark as shown. Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a). Please note that the examining attorney withdraws the advisory concerning the disclaimer requirement.

The filing of a request for reconsideration does *not* extend the time for filing a proper response to the final action, which runs from the date the final action was mailed. 37 C.F.R. §2.64(b); TMEP §§715.03 and 715.03(c).

/Priscilla Milton/ Examining Attorney Law Office 110 (571) 272-9199

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international

SYLLABICATION: in-ter-na-tion-al

PRONUNCIATION: Tin'tor-nash'e-nol, -nash'nol

ADJECTIVE: abbr. int. or intl. 1. Of, relating to, or involving two or more nations: an

international commission; international affairs. 2. Extending across or

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STREET PROSECULARS CONTRIBUCIONES, STREET PROSECULARS ACTION OF THE THEORYTH MICE COST OF

transcending national boundaries: international fame.

NOUN: International Any of several socialist organizations of international scope

formed during the late 19th and early 20th centuries.

OTHER FORMS: in terna tional rty (-sho-nal 1-ы) —ноин

in'terna'tion ally -- ADVERB

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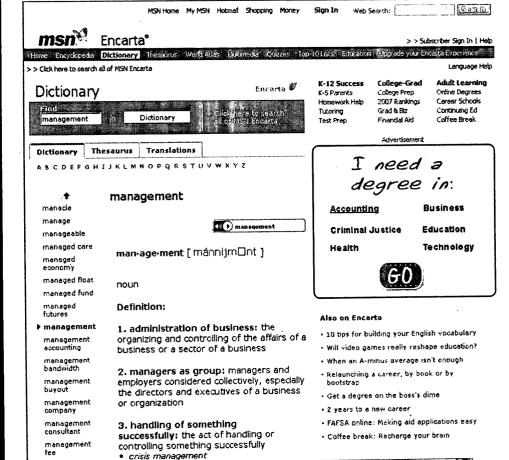
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4. skill in handling or using

something such as resources

something: the skillful handling or use of



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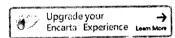


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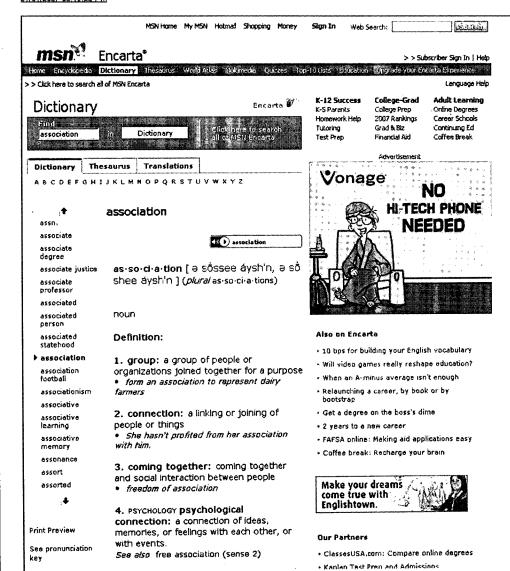


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· as-so-ci-a-tion-al adjective

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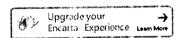
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